



July 12, 1999

Mr. Mark E. Dempsey  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR99-1915

Dear Mr. Dempsey:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 125653.

The City of Garland (the "city") received a written request for various law enforcement records from an individual who received a traffic citation. You contend the requested records may be withheld from the public pursuant section 552.103 of the Government Code because the requestor stated in his request that he is seeking the records "to enable me to decide whether or not to prepare a defense and take the case to court." You state that charges for the traffic offense are currently pending in Garland Municipal Court.

To secure the protection of section 552.103, a governmental body must demonstrate that the requested information relates to pending or reasonably anticipated litigation to which the governmental body is a party. *University of Tex. Law Sch. v. Texas Legal Found.*, 958 S.W.2d 479 (Tex. App.—Austin 1997, no pet.); Open Records Decision No. 588 at 1 (1991). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103. In fact, the requestor himself states that


[a]ll information obtained form this request is for statistical purposes in analyzing and developing a potential defense which may include presentation of statistical data showing prejudice and/or discriminatory application of the law and/or misuse or abuse of police power and discretion; analytical data showing lack of compliance with procedures; and/or analytical data indicating inaccuracy or lack of reliability of the laser weapon used.

Because you have met your burden of establishing that the requested records relate to litigation to which the city is a party, we conclude that the city may withhold the requested records pursuant to section 552.103 of the Government Code.

In reaching this conclusion, however, we assume that the opposing party to the litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, *e.g.*, through discovery or otherwise, no section 552.103 interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). If the opposing party in the litigation has seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103. We also note that the applicability of section 552.103 ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael J. Burns", with a stylized flourish at the end.

Michael J. Burns  
Assistant Attorney General  
Open Records Division

MJB/RWP/eaf

Ref.: ID# 125653

Encl. Submitted documents

cc: Mr. William J. Biondi  
1902 Meridian Way  
Garland, Texas 75040-5492  
(w/o enclosures)